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10 Attorneys for Defendant J. JULIANO

11 **UNITED STATES DISTRICT COURT**

12 **CENTRAL DISTRICT OF CALIFORNIA**

13 CHROME HEARTS, LLC., a Delaware) **Case No. CV08-03328 VBF (FFMx)**
14 Limited Liability Company,) **DEFENDANT J. JULIANO'S**
15) **ANSWER TO PLAINTIFF'S**
16 Plaintiff,) **COMPLAINT**
17 vs.) **DEMAND FOR JURY TRIAL**

18 J. JULIANO, an unknown business entity)
19 dba DKNY MELROSE; MELEE 17,)
20 INC., a California Corporation; JAY)
21 CHOI, an individual; MAYA JEWELRY)
22 IMPORTS, INC., a California)
23 Corporation; ART JEWELRY, an)
24 unknown business entity; and Does 1-10,)
25 inclusive,)

26 Defendants.)

27 Defendant J. JULIANO, a General Partnership (hereinafter "DEFENDANT"),
28 hereby responds to Plaintiff's Complaint as follows:

1 1. DEFENDANT admits that this Court has subject matter jurisdiction over
2 Federal copyright and trademark causes of action.

3 2. DEFENDANT admits that the Court has personal jurisdiction of
4 DEFENDANT.

5 3. DEFENDANT admits that venue is proper in this District and denies all
6 other allegations contained in this paragraph.

7 4. DEFENDANT lacks sufficient information and/or knowledge to admit or
8 deny the allegations contained in this paragraph and demands strict proof thereof.

9 5. DEFENDANT, a general partnership, admits that its principal place of
10 business is 7550 Melrose Avenue in the city of Los Angeles, California and denies all
11 other allegations contained in this paragraph and demands strict proof thereof.

12 6. DEFENDANT lacks sufficient information and/or knowledge to admit or
13 deny the allegations contained in this paragraph and demands strict proof thereof.

14 7. DEFENDANT lacks sufficient information and/or knowledge to admit or
15 deny the allegations contained in this paragraph and demands strict proof thereof.

16 8. DEFENDANT lacks sufficient information and/or knowledge to admit or
17 deny the allegations contained in this paragraph and demands strict proof thereof.

18 9. DEFENDANT lacks sufficient information and/or knowledge to admit or
19 deny the allegations contained in this paragraph and demands strict proof thereof.

20 10. DEFENDANT lacks sufficient information and/or knowledge to admit or
21 deny the allegations contained in this paragraph and demands strict proof thereof.

22 11. DEFENDANT lacks sufficient information and/or knowledge to admit or
23 deny the allegations contained in this paragraph and demands strict proof thereof.

24 12. DEFENDANT lacks sufficient information and/or knowledge to admit or
25 deny the allegations contained in this paragraph with regard to the other named
26 defendants. With regard to this answering DEFENDANT in particular, the truth of the
27 allegations contained in this paragraph are denied and DEFENDANT demands strict
28 proof thereof.

1 13. DEFENDANT lacks sufficient information and/or knowledge to admit or
2 deny the allegations contained in this paragraph and demands strict proof thereof.

3 14. DEFENDANT lacks sufficient information and/or knowledge to admit or
4 deny the allegations contained in this paragraph and demands strict proof thereof.

5 15. DEFENDANT lacks sufficient information and/or knowledge to admit or
6 deny the allegations contained in this paragraph and demands strict proof thereof.

7 16. DEFENDANT denies the truth of the allegations contained in this paragraph
8 and demands strict proof thereof.

9 17. DEFENDANT lacks sufficient information and/or knowledge to admit or
10 deny the allegations contained in this paragraph and demands strict proof thereof.

11 18. DEFENDANT lacks sufficient information and/or knowledge to admit or
12 deny the allegations contained in this paragraph and demands strict proof thereof.

13 19. DEFENDANT lacks sufficient information and/or knowledge to admit or
14 deny the allegations contained in this paragraph and demands strict proof thereof.

15 20. DEFENDANT lacks sufficient information and/or knowledge to admit or
16 deny the allegations contained in this paragraph and demands strict proof thereof.

17 21. DEFENDANT lacks sufficient information and/or knowledge to admit or
18 deny the allegations contained in this paragraph and demands strict proof thereof

19 22. DEFENDANT lacks sufficient information and/or knowledge to admit or
20 deny the allegations contained in this paragraph and demands strict proof thereof.

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22 deny the allegations contained in this paragraph and demands strict proof thereof.

23 24. DEFENDANT lacks sufficient information and/or knowledge to admit or
24 deny the allegations contained in this paragraph and demands strict proof thereof.

25 25. DEFENDANT lacks sufficient information and/or knowledge to admit or
26 deny the allegations contained in this paragraph and demands strict proof thereof.

27 26. DEFENDANT denies the truth of the allegations contained in this paragraph
28 and demands strict proof thereof.

1 27. DEFENDANT denies the truth of the allegations contained in this paragraph
2 and demands strict proof thereof.

3 28. DEFENDANT lacks sufficient information and/or knowledge to admit or
4 deny the allegations contained in this paragraph and demands strict proof thereof.

5 29. DEFENDANT denies the truth of the allegations contained in this paragraph
6 and demands strict proof thereof.

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8 deny the allegations contained in this paragraph and demands strict proof thereof.

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10 deny the allegations contained in this paragraph and demands strict proof thereof.

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12 deny the allegations contained in this paragraph and demands strict proof thereof.

13 33. DEFENDANT lacks sufficient information and/or knowledge to admit or
14 deny the allegations contained in this paragraph and demands strict proof thereof.

15 34. DEFENDANT lacks sufficient information and/or knowledge to admit or
16 deny the allegations contained in this paragraph and demands strict proof thereof.

17 35. DEFENDANT denies the truth of the allegations contained in this paragraph
18 and demands strict proof thereof.

19 36. DEFENDANT lacks sufficient information and/or knowledge to admit or
20 deny the allegations contained in this paragraph and demands strict proof thereof.

21 37. DEFENDANT lacks sufficient information and/or knowledge to admit or
22 deny the allegations contained in this paragraph and demands strict proof thereof.

23 38. DEFENDANT incorporates by this reference each and every response set
24 forth above to paragraphs 1 through 37, inclusive, as though fully set forth herein.

25 39. DEFENDANT denies the truth of the allegations contained in this paragraph
26 and demands strict proof thereof.

27 40. DEFENDANT denies the truth of the allegations contained in this paragraph
28 and demands strict proof thereof.

1 41. DEFENDANT denies the truth of the allegations contained in this paragraph
2 and demands strict proof thereof.

3 42. DEFENDANT denies the truth of the allegations contained in this paragraph
4 and demands strict proof thereof.

5 43. DEFENDANT denies the truth of the allegations contained in this paragraph
6 and demands strict proof thereof.

7 44. DEFENDANT denies the truth of the allegations contained in this paragraph
8 and demands strict proof thereof.

9 45. DEFENDANT denies the truth of the allegations contained in this paragraph
10 and demands strict proof thereof.

11 46. DEFENDANT incorporates by this reference each and every response set
12 forth above to paragraphs 1 through 45, inclusive, as though fully set forth herein.

13 47. DEFENDANT lacks sufficient information and/or knowledge to admit or
14 deny the allegations contained in this paragraph and demands strict proof thereof.

15 48. DEFENDANT lacks sufficient information and/or knowledge to admit or
16 deny the allegations contained in this paragraph and demands strict proof thereof.

17 49. DEFENDANT denies the truth of the allegations contained in this paragraph
18 and demands strict proof thereof.

19 50. DEFENDANT denies the truth of the allegations contained in this paragraph
20 and demands strict proof thereof.

21 51. DEFENDANT denies the truth of the allegations contained in this paragraph
22 and demands strict proof thereof.

23 52. DEFENDANT denies the truth of the allegations contained in this paragraph
24 and demands strict proof thereof.

25 53. DEFENDANT denies the truth of the allegations contained in this paragraph
26 and demands strict proof thereof.

27 54. DEFENDANT denies the truth of the allegations contained in this paragraph
28 and demands strict proof thereof.

1 55. DEFENDANT denies the truth of the allegations contained in this paragraph
2 and demands strict proof thereof.

3 56. DEFENDANT denies the truth of the allegations contained in this paragraph
4 and demands strict proof thereof.

5 57. DEFENDANT incorporates by this reference each and every response set
6 forth above to paragraphs 1 through 56, inclusive, as though fully set forth herein.

7 58. DEFENDANT lacks sufficient information and/or knowledge to admit or
8 deny the allegations contained in this paragraph and demands strict proof thereof.

9 59. DEFENDANT denies the truth of the allegations contained in this paragraph
10 and demands strict proof thereof.

11 60. DEFENDANT denies the truth of the allegations contained in this paragraph
12 and demands strict proof thereof.

13 61. DEFENDANT denies the truth of the allegations contained in this paragraph
14 and demands strict proof thereof.

15 62. DEFENDANT denies the truth of the allegations contained in this paragraph
16 and demands strict proof thereof.

17 63. DEFENDANT denies the truth of the allegations contained in this paragraph
18 and demands strict proof thereof.

19 64. DEFENDANT denies the truth of the allegations contained in this paragraph
20 and demands strict proof thereof.

21 65. DEFENDANT incorporates by this reference each and every response set
22 forth above to paragraphs 1 through 64, inclusive, as though fully set forth herein.

23 66. DEFENDANT lacks sufficient information and/or knowledge to admit or
24 deny the allegations contained in this paragraph and demands strict proof thereof.

25 67. DEFENDANT denies the truth of the allegations contained in this paragraph
26 and demands strict proof thereof.

27 68. DEFENDANT denies the truth of the allegations contained in this paragraph
28 and demands strict proof thereof.

1 69. DEFENDANT denies the truth of the allegations contained in this paragraph
2 and demands strict proof thereof.

3 70. DEFENDANT denies the truth of the allegations contained in this paragraph
4 and demands strict proof thereof.

5 71. DEFENDANT denies the truth of the allegations contained in this paragraph
6 and demands strict proof thereof.

7 72. DEFENDANT denies the truth of the allegations contained in this paragraph
8 and demands strict proof thereof.

9 73. DEFENDANT denies the truth of the allegations contained in this paragraph
10 and demands strict proof thereof.

11 74. DEFENDANT denies the truth of the allegations contained in this paragraph
12 and demands strict proof thereof.

13 75. DEFENDANT incorporates by this reference each and every response set
14 forth above to paragraphs 1 through 74, inclusive, as though fully set forth herein.

15 76. DEFENDANT denies the truth of the allegations contained in this paragraph
16 and demands strict proof thereof.

17 77. DEFENDANT denies the truth of the allegations contained in this paragraph
18 and demands strict proof thereof.

19 78. DEFENDANT denies the truth of the allegations contained in this paragraph
20 and demands strict proof thereof.

21 79. DEFENDANT denies the truth of the allegations contained in this paragraph
22 and demands strict proof thereof.

23 80. DEFENDANT denies the truth of the allegations contained in this paragraph
24 and demands strict proof thereof.

25 81. DEFENDANT denies the truth of the allegations contained in this paragraph
26 and demands strict proof thereof.

27 82. DEFENDANT denies the truth of the allegations contained in this paragraph
28 and demands strict proof thereof.

1 83. DEFENDANT denies the truth of the allegations contained in this paragraph
2 and demands strict proof thereof.

3 84. DEFENDANT incorporates by this reference each and every response set
4 forth above to paragraphs 1 through 83, inclusive, as though fully set forth herein.

5 85. DEFENDANT denies the truth of the allegations contained in this paragraph
6 and demands strict proof thereof.

7
8 WHEREFORE, DEFENDANT prays that Plaintiff take nothing upon trial and that
9 DEFENDANT be awarded its costs and attorney's fees and/or such other relief as the
10 Court deems just and proper.

11
12 **AFFIRMATIVE DEFENSES TO THE COMPLAINT**
13 **AND TO EACH ALLEGED CLAIM FOR RELIEF STATED THEREIN**

14 As separate affirmative defenses to the Complaint, and to each purported cause of
15 action asserted therein, DEFENDANT alleges:

16 **FIRST AFFIRMATIVE DEFENSE**

17 (Failure to State a Claim for Relief)

18 DEFENDANT is informed and believes and thereon alleges that Plaintiff's
19 Complaint, and each purported Claim for Relief therein, fails to state sufficient facts to
20 constitute a claim upon which relief can be granted.

21 **SECOND AFFIRMATIVE DEFENSE**

22 (Failure to Mitigate)

23 Plaintiff has failed to take adequate steps to minimize, alter, reduce or otherwise
24 diminish its damages, if any, with respect to the matters alleged in the Complaint, and by
25 reason of the foregoing, Plaintiff is barred from the recovery of damages.

26 **THIRD AFFIRMATIVE DEFENSE**

27 (Uncertainty)

28 The Complaint and each purported Claim for Relief asserted therein are uncertain.

1 **FOURTH AFFIRMATIVE DEFENSE**

2 (Estoppel)

3 DEFENDANT is informed and believes and thereon alleges that Plaintiff is, by its
4 own conduct and omissions, barred from asserting any claims or damages or from
5 seeking other relief from DEFENDANT by the doctrine of estoppel.

6 **FIFTH AFFIRMATIVE DEFENSE**

7 (Statute of Limitations)

8 DEFENDANT is informed and believes and thereon alleges that Plaintiff's
9 Complaint is barred, in whole or in part, by the applicable statutes of limitations.

10 **SIXTH AFFIRMATIVE DEFENSE**

11 (Laches)

12 DEFENDANT is informed and believes and thereon alleges that Plaintiff's claims
13 are barred by the doctrine of laches.

14 **SEVENTH AFFIRMATIVE DEFENSE**

15 (Waiver)

16 DEFENDANT is informed and believes and thereon alleges that Plaintiff, by its
17 actions and/or omissions, knowingly, voluntarily and willingly waived any rights it might
18 otherwise have by the doctrine of waiver.

19 **EIGHTH AFFIRMATIVE DEFENSE**

20 (Unclean Hands)

21 DEFENDANT is informed and believes and thereon alleges that by virtue of
22 Plaintiff's unlawful, immoral, careless, negligent and other wrongful conduct, Plaintiff
23 should be barred from recovering against DEFENDANT by the equitable doctrine of
24 unclean hands.

25 **NINTH AFFIRMATIVE DEFENSE**

26 (Invalid and Unenforceable Trademarks and Copyrights)

27 DEFENDANT is informed and believes and thereon alleges that the Trademarks
28 and Copyrights alleged to exist in the Complaint are invalid and/or unenforceable.

1 **TENTH AFFIRMATIVE DEFENSE**

2 (Generic Trademarks and/or Copyrights)

3 DEFENDANT is informed and believes and thereon alleges that the Trademarks
4 and/or Copyrights it has allegedly infringed in the Complaint are invalid, unenforceable
5 and/or incapable of protection since said Trademarks and/or Copyrights are merely
6 generic, uncreative and unoriginal designs which have been in existence in the
7 marketplace long before Plaintiff's inception.

8 **ELEVENTH AFFIRMATIVE DEFENSE**

9 (Privilege)

10 DEFENDANT is informed and believes and thereon alleges that Plaintiff's claims
11 are barred or limited, in whole or in part, because DEFENDANT has not engaged in any
12 unlawful or unfair business practices, and DEFENDANT's conduct was proper and
13 performed under the competition privilege.

14 **TWELFTH AFFIRMATIVE DEFENSE**

15 (No Infringement)

16 DEFENDANT is informed and believes and thereon alleges that Plaintiff's claims
17 are barred or limited, in whole or in part, because DEFENDANT has not engaged in any
18 unlawful or unfair conduct and has not copied and/or used any of Plaintiff's alleged
19 Trademarks and/or Copyrights.

20 **THIRTEENTH AFFIRMATIVE DEFENSE**

21 (Lack of Distinctiveness/Secondary Meaning)

22 DEFENDANT is informed and believes and thereon alleges that Plaintiff's claims
23 are barred or limited, in whole or in part, because the alleged marks are not inherently
24 distinctive and have not become distinctive in that purchasers do not associate the alleged
25 marks with the Plaintiff alone.

26 ///

27 ///

28 ///

1 **FOURTEENTH AFFIRMATIVE DEFENSE**

2 (Fair Use)

3 DEFENDANT is informed and believes and thereon alleges that Plaintiff's claims
4 are barred or limited, in whole or in part, because DEFENDANT's use of the Trademarks
5 and/or Copyrights, if any, was a fair use.

6 **FIFTEENTH AFFIRMATIVE DEFENSE**

7 (Mootness)

8 DEFENDANT is informed and believes, and on that ground alleges that each and
9 every claim asserted by the Plaintiff is moot because DEFENDANT is not advertising,
10 reproducing, distributing, offering for sale or otherwise selling any goods or services
11 which use the purported Trademarks and/or Copyrights.

12 **SIXTEENTH AFFIRMATIVE DEFENSE**

13 (Good Faith)

14 DEFENDANT's conduct was at all times undertaken in good faith and without any
15 knowledge or intent to infringe Plaintiff's purported Trademarks and/or Copyrights.

16 **SEVENTEENTH AFFIRMATIVE DEFENSE**

17 (Conduct Not Fraudulent)

18 DEFENDANT is informed and believes and thereon alleges that its business
19 practices are not "fraudulent" within the meaning of the Lanham Act.

20 **EIGHTEENTH AFFIRMATIVE DEFENSE**

21 (Plaintiff Lacks Standing)

22 DEFENDANT is informed and believes and thereon alleges that, as to each and
23 every Claim for Relief or purported Claim for Relief contained in the Complaint, Plaintiff
24 lacks standing to bring and maintain this action.

25 **NINETEENTH AFFIRMATIVE DEFENSE**

26 (Adequate Remedy at Law)

27 DEFENDANT is informed and believes and thereon alleges that Plaintiff is not
28 entitled to equitable relief because Plaintiff has an adequate remedy at law.

1 **TWENTIETH AFFIRMATIVE DEFENSE**

2 (No Legal Causation)

3 DEFENDANT is informed and believes and thereon alleges that at all times
4 mentioned in Plaintiff's Complaint, DEFENDANT's acts were not a legal cause of
5 damages, if any, to Plaintiff.

6 **TWENTY-FIRST AFFIRMATIVE DEFENSE**

7 (Damages Cannot be Determined)

8 DEFENDANT is informed and believes and thereon alleges that the damages, if
9 any, of Plaintiff, are speculative, uncertain and not capable of being determined by a
10 finder of fact.

11 **TWENTY-SECOND AFFIRMATIVE DEFENSE**

12 (Failure to State Facts Sufficient for Damages)

13 DEFENDANT is informed and believes and thereon alleges that Plaintiff's
14 Complaint fails to state facts sufficient to support an award of damages for attorneys'
15 fees, expert witness fees and any other litigation fees, costs, and expenses as against this
16 Answering DEFENDANT.

17 **TWENTY-THIRD AFFIRMATIVE DEFENSE**

18 (Failure to Join a Necessary Party)

19 DEFENDANT is informed and believes and thereon alleges that Plaintiff's
20 Complaint fails to join a party or parties necessary for just adjudication of this action as
21 required by Fed. R. Civ. P. 19.

22 **TWENTY-FOURTH AFFIRMATIVE DEFENSE**

23 (Reservation of Additional Affirmative Defenses)

24 DEFENDANT is informed and believes and thereon alleges that they may have
25 additional defenses that cannot be articulated due to Plaintiff's failure to particularize its
26 claims with regard to this answering DEFENDANT and failure to provide more specific
27 information concerning the nature of the damage claims and claims for certain costs for
28 which Plaintiffs alleges that DEFENDANT may have some responsibility.


1 DEFENDANT therefore reserves the right to assert additional defenses upon further
2 particularization of Plaintiff's claims, upon examination of the documents provided, upon
3 discovery of further information concerning the alleged damage claims and claims for
4 costs, and upon the development of any other pertinent information.

5
6 WHEREFORE, DEFENDANT prays for judgment as follows:

- 7 1. That Plaintiff takes nothing by way of its Complaint and that the Complaint be
8 dismissed with prejudice;
9 2. That judgment be entered in favor of DEFENDANT and against Plaintiff;
10 3. For such other relief as the Court may deem just and proper.

11
12
13 DATED: September 18, 2008

BEITCHMAN & ZEKIAN, P.C.

14 
15 _____
16 Todd E. Chvat,
17 Attorneys for DEFENDANT
18 J. JULIANO, a General Partnership
19
20
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26
27
28

Proof of Service

I, the undersigned, declare and say as follows:

I am 18 years of age or older, employed at the business noted above my signature which is in the county where any mailing herein stated occurred, and not a party to the within action.

On September 18, 2008, I caused to be served the document(s) listed below my signature under the heading "Document(s) Served" by placing a copy of the document(s) (or the original, if so noted below) in individual envelopes for each of the parties listed below my signature under the heading "Parties Served" (except for fax-only service), addressed to them at their last known addresses in this action exactly as shown (excepting parenthetical references to their capacity), there being U.S. Mail delivery service to those addresses used for service by mail, and by sealing said envelopes, and on the same day, as marked with "X," by --

☒ **placing each envelope for collection and processing for mailing** following my firm's ordinary business practice with which I am readily familiar and under which on the same day correspondence is so placed for mailing it is deposited in the ordinary course of business with the U.S. Postal Service at my business address, 1st-class postage fully prepaid.

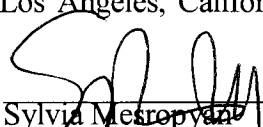
☐ **depositing each envelope into the U.S. mail** with 1st-class postage fully prepaid at a mail box or collection facility in the city and state of my business address. "Parties Served" lists all parties and counsel served in the within matter, and their respective capacities. [required for federal cases, **including bankruptcy**, among others]

☐ **faxing** each page of each document and this proof of service to the parties served at their last known fax numbers as listed below from a fax machine located at my business address which reported no errors and which produced a transmission confirmation report, a true copy of which is attached hereto. [use only if fax service authorized or as a supplement.]

☐ **depositing each envelope at a drop box or other facility in the city and state of my business address within the time and pursuant to procedures readily familiar to me necessary for delivery** ☐ **by Federal Express** on the morning of the next business day or ☐ **by courier** on the same day. [use only if overnight or courier service authorized or as a supplement.]

☐ **personal delivery** by ☐ traveling to the address shown on the envelope and delivering it there during normal business hours or ☐ handing the documents to the person served.

I declare under penalty of perjury under the laws of the State of California and the United States that the foregoing is true and correct and that this declaration was executed on September 18, 2008, at my business address, 510 West 6th Street, Suite 1220, Los Angeles, California 90014, in the County of Los Angeles.


Sylvia Mesropyan

Document(s) Served (exact title)

DEFENDANT J. JULIANO'S ANSWER TO PLAINTIFF'S COMPLAINT

Parties Served (exact envelope address)

| | |
|-------------------------|--------------------------------------|
| Brent H. Blakely, Esq. | Bradley S. Sandler, Esq. |
| Cindy Chan, Esq. | LAW OFFICES OF BRADLEY S. SANDLER |
| BLAKELY LAW GROUP | 433 North Camden Drive, Fourth Floor |
| 915 North Citrus Avenue | Beverly Hills, CA 90210 |
| Hollywood, CA 90038 | |